

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RAYMUNDO VICENTE RUBIO,

Plaintiffs,

v.

CITY OF VISALIA, et al.,

Defendants.

Case No. 1:21-cv-00286-SAB

**ORDER REQUIRING DEFENDANTS TO
FILE A RESPONSE TO PLAINTIFF'S EX
PARTE REQUEST TO MODIFY THE
SCHEDULING ORDER**

(ECF No. 57)

SEVEN DAY DEADLINE

On October 31, 2023, Plaintiff filed an *ex parte* application to modify the scheduling order to extend the deadlines for (1) non-expert discovery; (2) expert disclosure; and (3) supplemental expert disclosure. (ECF No. 57.) An initial scheduling order was issued in this action on September 10, 2021, and was modified on April 6, 2022, and again on June 6, 2023. (ECF Nos. 24, 37, 55.) Pursuant to the Court's June 6, 2023 order modifying the scheduling order, the nonexpert discovery deadline is currently set for November 3, 2023; expert disclosure is currently set for November 6, 2023; and supplemental expert disclosure is currently set for December 4, 2023. (ECF No. 55.) Plaintiff requests an extension of the nonexpert discovery deadline to December 1, 2023; expert disclosure to December 6, 2023; and supplemental expert disclosure to December 20, 2023 in order to take the depositions of the two named defendants and subsequently designate experts. (ECF No. 57 at 1-2.) In short, Plaintiff is requesting an extension due to oversight on the part of Plaintiff's counsel and staffing changes. (*Id.* at 3-4.)

1 Plaintiff does not request an extension of any other deadline in the instant *ex parte* application.

2 In the instant application, Plaintiff's counsel represents he notified Defendants' counsel
3 on October 30, 2023 that Plaintiff would seek *ex parte* relief. (ECF No. 57 at 3.) Plaintiff
4 proffers Defendants' counsel requested a copy of Plaintiff's *ex parte* application on October 31,
5 2023. (Id.) However, Plaintiff proffers "[i]t is unknown if Defendants will oppose Plaintiff's *ex*
6 *parte* application." (Id.) The Court shall therefore require Defendants to file an opposition or
7 non-opposition to Plaintiff's *ex parte* application to modify the scheduling order regarding
8 discovery and expert deadlines within seven (7) days. If Defendant requires additional time or
9 would prefer this matter be set for hearing, Defendant may indicate in the filing. Alternatively,
10 the parties may submit a stipulation within seven (7) days.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Within **seven (7) days** of entry of this order, Defendants shall file an opposition to
13 Plaintiff's *ex parte* application;
- 14 2. If Defendants file an opposition, Plaintiff may file a reply within **three (3) days**
15 of service of the opposition; and
- 16 3. The parties may alternatively stipulate to a modification, or request a hearing be
17 held on the application.

18 IT IS SO ORDERED.

19 Dated: **October 31, 2023**

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22 UNITED STATES MAGISTRATE JUDGE
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